

Before the
Federal Communications Commission
Washington, D.C. 20554

FCC 05M-60

In the Matter of)
)
Florida Cable Telecommunications)
Association, Inc.; Comcast Cablevision of)
Panama City, Inc.; Mediacom Southeast,)
L.L.C.; and Cox Communications Gulf,)
L.L.C.,)
)
Complainants,)
)
v.)
)
Gulf Power Company,)
)
Respondent.)

EB Docket No. 04-381
04978

SCHEDULING ORDER

Issued: December 14, 2005

Released: December 16, 2005

Joint Proposed Procedure for Further Proceedings and Hearing was submitted and filed on December 9, 2005, by the contending parties, Florida Cable Telecommunications Association, Inc. *et al.* ("Complainants") and Gulf Power Company ("Gulf Power"). On December 13, 2005, the Enforcement Bureau ("Bureau") filed a Response indicating no objection to the procedure.¹

Proposed procedural dates ARE APPROVED, except for Trial Briefs, and the following amended schedule is set:

January 20, 2006 - Gulf Power shall identify² no more than fifty (50) poles that are alleged to be at "full capacity" and which allegedly satisfy the requirements in *Alabama Power*.³

¹ See Order FCC 05M-58, and Order FCC 05M-59, released November 22, 2005. See also *Transcript of Prehearing Conference*, November 21, 2005, Tr. 302-315.

² Gulf Power's pole identification document will be filed with the Commission and served on all parties, and will include all documents and other records upon which Gulf Power relies to support its contentions, as well as location (including nearest street address), and color photograph of each pole.

³ *Alabama Power Co. v. FCC*, 311 F.3d 1357, 1370-71 (11th Cir. 2002).

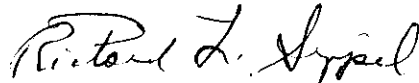
- January 27, 2006** - Complainants may (optional) identify a number of poles not to exceed fifty (50) containing one or more of Complainants' attachments which Complainants contend may or may not satisfy the requirements of *Alabama Power*. Identifying information also will be provided to the best of their abilities, regarding each such additional pole, such as location (including nearest street address), and color photograph of each pole.
- February 10, 2006** - Gulf Power shall provide additional information to Complainants and the Bureau about such poles identified on January 20, including Gulf Power pole numbers; all documentation associated with the Osmose report that is applicable to such poles; identification of all entities attached to each pole; location above ground level of all attachments on each pole; height, material and date of installation in the ground of each pole; copies of all make-ready (including "change-out") documents involving each pole; copies of any accounting and/or cost records relating to such poles; and all records and/or a statements upon which Gulf Power relies to support its claim of a lost opportunity as to such poles.
- January/
February 2006** - Complainants shall make available to Gulf Power one representative from each of the Complainant cable operators⁴ for oral deposition, at a time and place to be agreed upon by counsel. During the same period, for good cause shown, Gulf Power may (optional) seek additional discovery from Complainants.
- February 24, 2006** - All non-expert discovery to be completed.

⁴ Comcast Cablevision of Panama City, Inc.; Mediacom Southeast, L.L.C.; Cox Communications Gulf, L.L.C.; and Bright House Networks, L.L.C. (See Complainants' Statement that All Necessary Cable Companies Are Parties To The Case, filed February 28, 2005.)

- March 17, 2006** - Expert depositions to be concluded.
- March 31, 2006** - Parties shall file and exchange written cases (written testimony and exhibit lists).
- April 7, 2006** - Witness notification of intent to cross-examine (submit hearing subpoenas as needed to assure attendance).
- April 10, 2006** - Document admission session in Courtroom TW-A363 at 9:30 a.m.
- April 11, 2006** - Gulf Power to file and serve Trial Brief.
- April 17, 2006** - Complainants to file and serve Trial Brief.
- April 20, 2006** - Bureau to file and serve any Comments to Trial Briefs.
- April 24, 2006** - Hearing to commence in Courtroom TW-A363 at 9:30 a.m.

SO ORDERED.

FEDERAL COMMUNICATIONS COMMISSION⁵



Richard L. Sippel
Chief Administrative Law Judge

⁵ Courtesy copies of this *Scheduling Order* were transmitted to counsel for each of the parties by e-mail on the date of issuance.